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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,430	03/30/2001	Pamella A. Costello	COSTEL 3.0-001	8754

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EXAMINER

NGUYEN, ANTHONY H

ART UNIT PAPER NUMBER

2854

DATE MAILED: 09/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/823,430

Applicant(s)

COSTELLO, PAMELLA A.

Examiner

Anthony H Nguyen

Art Unit

2854

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 2854

### *Claim Objections*

Claim 19 is objected to because the claim does not set forth any steps involved in the method/process of avoiding “the transmission of disease carrying organism” but the claim appears to be drawn to a keyboard cover per se. Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the language “optionally” (claim 1 line 3, claim 18 line 5 and claim 19 line 7) renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Additionally, the language “proximate” (claim 1 line 11, and claim 18 lines 13) is indefinite because it has no clear meaning and does not positively recite any structure. Also, the element “an external device” (claim 1 line 5, claim 7 line 3, claim 18 line 6) is inferentially recited. Claim 7 constitutes a double recitation of the subject matters recited in claim 1. Claim 9 is simply functional and does not further restrict

Art Unit: 2854

its parent claim since the limitation of the light beam is not consistent with the claimed subject matter.

The above are simply examples of the errors present. Applicant is required to carefully review the claims and eliminate all such errors.

To the extent the claims are positively recited structure, it appears that the following prior art rejection is proper.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5,7,18 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by each of the patents to Nopper et al. (US 5,021,638) and Phillippe (US 5,096,317).

Nopper et al. teaches a keyboard cover having structure and method which meet the structure and method as broadly claimed. For example, Nopper et al. teaches a keyboard cover 24 having a top panel 28, a vertical side, front and rear panels as shown in Figs.3 and 3a of Nopper et al.

Art Unit: 2854

Phillippe teaches a keyboard cover having structure and method which meet the structure and method as broadly claimed. Phillippe teaches a keyboard cover 13 having a top panel 23, a vertical side, front and rear panel 22,22a as shown in Figs.3 and 4 of Phillippe.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) a patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8-17 are rejected under 35 U.S.C. § 103 (a) as being unpatentable over each of the patents to Nopper et al. (US 5,021,638) and Phillippe (US 5,096,317).

Each of the patents to Nopper et al. and Phillippe teaches the keyboard cover having substantially the structure as claimed. See the explanation of Nopper et al. and Phillippe above. Nopper et al. and Phillippe fail to teach clearly the elastomeric compositions of side panels which has less elasticity than the top panel. However, the use of a top panel which has less elasticity than the side panel for ease of entering data on a keyboard is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to modify the keyboard of Nopper et al. or Phillippe by providing top panel which has an elastomeric composition which is less elasticity than the side panels to improve the efficiency of typing on a keyboard if in fact Nopper et al. or Phillippe does not teach the top panel as recited. With respect to claims 10-14, the

Art Unit: 2854

selection of a desired material for forming the cover involves only an obvious matter of design choice based upon obvious experimentation.

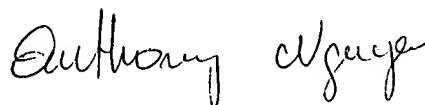
*Conclusion*

The patents to King-DeBaun, Lebeau et al., and Kock are cited to show other structures and method having obvious similarities to the claimed structure and method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Nguyen whose telephone number is (703) 308-2869. The examiner can normally be reached daily from 9 AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Hirshfeld, can be reached on (703) 305-6619. The fax phone number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Anthony Nguyen  
September 9, 2002  
Patent Examiner  
Technology Center 2800